

Summary of Proposed Amendments

Standards for Private Use of Downtown Public Spaces

Following recommendations were approved by the Law and Public Safety Committee at its meeting on March 25, 2008, for forwarding to consideration of City Council on April 1, 2008. Proposed effective date: June 1, 2008.

KEY TO TEXT:

- *Issues identified by the inter-agency implementation team and stakeholder groups shown in boldface italics.*
- Text shown in **boldface and underlined** is proposed to be added.
- Text shown ~~struck through~~ is proposed to be deleted.

Section I. OVERVIEW

1. *The goal of issuing permits in a fair and equitable manner should be emphasized while granting the privilege of using downtown public spaces for private use. The use of public space is sometimes taken for granted by private entities.*

RECOMMENDATION:

P. 4— amend the following passage as shown, under **C. OBJECTIVES / STANDARDS:**

- To apply fair and equitable regulations **in granting the privilege of using downtown public spaces for private use.**

2. *Employees of permit holders are not always complying with the applicable permit standards and procedures.*

RECOMMENDATION:

P. 5— add the following passage, under **3. RESPONSIBILITIES OF PERMIT HOLDERS:**

- **Permit holders and their employees must comply with the applicable permit standards and procedures.**

3. *Clarify the renewal application process in the Handbook.*

RECOMMENDATION:

P. 5— add the following passage, under **Permit Validity & Renewals--1st paragraph:**

Annual renewal applications for allocated spots may be submitted as early as June 1st but no later than June 30th or the permits will be considered expired. Permits for qualifying locations that are available are

allocated on a first-come, first-served basis. The time of submittal of the complete application, as validated by the permits officer will be stamped and recorded. For multiple permit requests received for one qualifying location, a lottery will be executed for assigning the spots. All site-specific permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.

4. *Allowing change of location within a given year, with fee waiver has encouraged change of locations that is hard to track down and monitor.*

RECOMMENDATION:

P. 5— amend the following passage as shown, under **Permit Validity & Renewals**--2nd paragraph:

If within a given year of receiving permit, the applicant desires to change location, an application and the applicable fees will have to be submitted for the new location. However, fees will be waived if the issued permit is still valid during the time of submittal. Permits for qualifying locations that are available are allocated on a first-come, first-served basis. The time of submittal of the complete application, as validated by the permits officer, will be stamped and recorded. For multiple permit requests received for one qualifying location, a lottery will be executed for assigning the spots. All site-specific permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.

RECOMMENDATION:

P. 9— amend the following passage as shown, under **E. DOWNTOWN PERMITS OFFICE**--Last paragraph:

If, within a given year of receiving permit, the applicant desires to change location, the application and the applicable fees will have to be submitted for the new location. However, fees will be waived if the issued permit is still valid during the time of re-submittal. Permits for qualifying locations that are available are allocated on a first-come, first-served basis. The time of submittal of the complete application, as validated by the permits officer, will be stamped and recorded. For multiple permit requests received for one qualifying location, a lottery will be executed for assigning the spots. All site-specific permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.

5. *Address permitting for outdoor dining areas that seek permanent changes to public space as part of Major encroachments that require Encroachment Committee review.*

RECOMMENDATION:

P. 6— amend the following passage as shown, under **Referrals to Encroachment Committee and Appeals**:

However, for a particularly complex permit request, or one of a potentially precedent-setting nature, the DPO staff may forward the request to the City's inter-departmental Encroachment Committee for expedited review. **PLEASE NOTE:** Outdoor dining areas seeking to make permanent changes to public space must seek Encroachment Committee review. Such changes may include (but are not limited to) installation of affixed fences, ground-mounted lighting or heating fixtures, in-ground landscaping, or altering portions of the sidewalk grade.

6. *Permit holders are reported for ongoing disorderly conduct but the handbook provisions do not provide for revocation of permits. A lot of time and effort has been expended by the police staff and inspectors in resolving this matter.*

RECOMMENDATIONS:

P. 6— amend/ add the following passages as shown, under **Revocation Criteria:**

- Conducts business in an unlawful or disorderly* manner, or in such a way that constitutes a menace or detriment to the health, safety, or welfare of the public, ~~or~~
- Three police reports have been filed for disorderly* conduct by the permit holder within a fiscal year,
or
- Three violations of any section of this handbook within a fiscal year.

(* To qualify as grounds for revocation, disorderly conduct/ manner must be validated by the an officer of the Raleigh Police Department. Predatory filing of police reports against individuals will not qualify.)

Section II. PERMIT PROCEDURES

NEWSRACKS

1. *Allowing change of location within a given year, with fee waiver has encouraged change of locations that is hard to track down and monitor.*

RECOMMENDATION:

P. 14— amend the following passage as shown, under **PERMIT PROVISIONS:**

If, within a given year of receiving permit, the applicant desires to change location, the application and the applicable fees will have to be submitted for the new location. ~~However, fees will be waived if the issued permit is still valid during the time of re-submittal.~~ For publications that have reached the \$200 cap, the reapplication fee for the change of location for the given year will be waived. All permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.

2. *Clarify the space allocation process (7 boxes per block face).*

RECOMMENDATION:

P. 15— amend the following passage as shown, under **Location:**

- No more than seven free-standing racks are permitted in any qualifying location. Only one such location is permitted per street block face and should accommodate the most (up to the maximum 7) spaces permitted along that block face. Where there is more than one such qualifying location along a single block face, the newsrack cluster location is designated based on the first request processed. All other requests along the relevant block face are to be accommodated within this designated cluster location.

- Modular units one compartment wide count as one free-standing rack.
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3. Stakeholders have expressed dissatisfaction with the notification process related to violation of newsrack standards. Redefine the notification process for newsrack violation.

RECOMMENDATION:

P. 14— amend the following passage as shown, under **Violations**:

- The City of Raleigh Inspections Department notifies permit holders of any violations.
 - Any newsrack installed, used or maintained in violation of the standards and procedures will be tagged by Inspections Department staff with a notice of violation stating the violation, date of tagging, and notice of intention to remove the newsrack if the violation is not corrected within 15 days. Upon tagging the newsrack, the Inspection Department will mail a certified letter to the permit holder stating the date within which the violation must be corrected.
 - The Inspections Department staff may, as an alternative to tagging the newsrack, move, align, or reposition racks in order to restore them to a legal location.
 - The permit holder is responsible for remedying the violation within the permitted time period noted on the tag and in the certified letter.
 - Any newsrack which has been tagged and remains in violation past the 15 day correction period shall be removed by the Inspections Department staff and stored in a secure location. Staff shall mail a notice of removal to the permit holder stating the date the newsrack was removed and the reasons for the action. Any newsrack thus removed and stored shall be released to the owner if claimed within 45 days after removal and upon payment of a fine of \$200.
 - If a removed newsrack is not claimed by the permit holder within the 45-day time period, the newsrack will be deemed unclaimed property in the possession of the City of Raleigh Police Department.
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OUTDOOR DINING

1. Address permitting requirements for outdoor dining areas that seek permanent changes to public space.

RECOMMENDATION:

P. 23— amend the following passage as shown, under **Referrals to Encroachment Committee and Appeals**:

However, for a particularly complex permit request, or one of a potentially precedent-setting nature, the DPD staff may forward the request to the City's inter-departmental Encroachment Committee for expedited review. **PLEASE NOTE: Outdoor dining areas seeking to make permanent changes to public space must seek Encroachment Committee review. Such changes may include (but are not limited to) installation of affixed fences, ground-mounted lighting or heating fixtures, in-ground landscaping, or altering portions of the sidewalk grade.**

2. *Curbside dining adjacent to on-street parking has been noted as a public safety issue. Curbside dining should be limited to 2-top tables adjacent to on-street parking areas to protect public safety.*

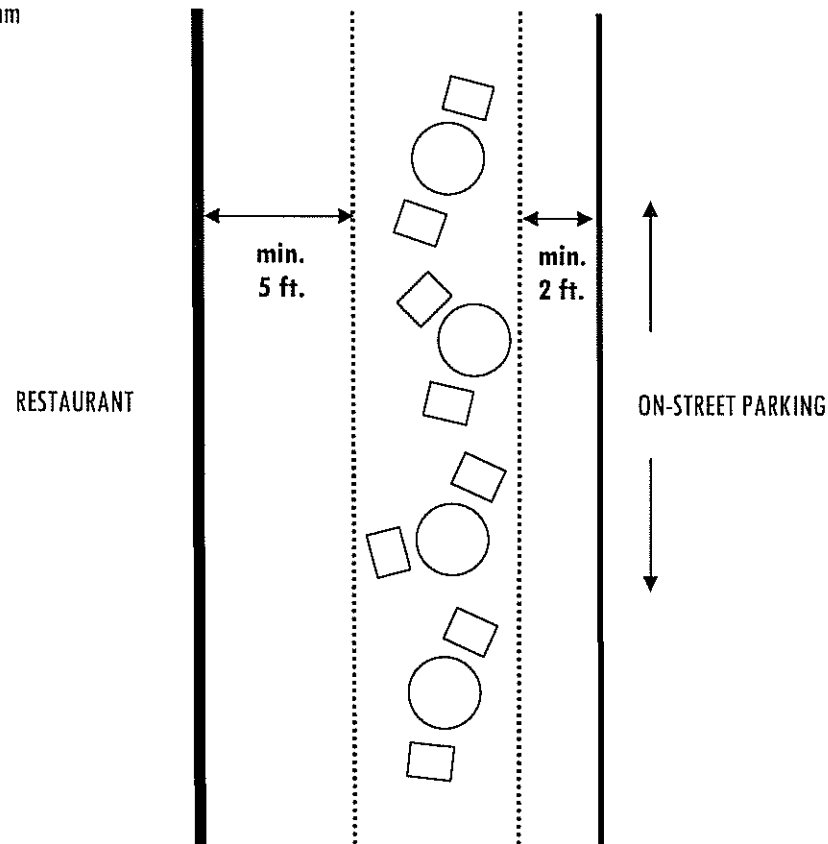
RECOMMENDATIONS:

P. 23— amend the following passage as shown, under **STANDARDS / Location**:

- Where curbside abuts on-street parking, curbside dining is limited to 2-top tables placed parallel to the street. A minimum 2 foot setback should be maintained from the curb edge.

P. 26— amend the following illustration to match the above text:

— Next to Curb diagram



PUSHCART VENDING

1. *Applications with scaled drawings alone are not sufficient to determine the eligibility of a location. Scaled plans and photographs should be required during the application process to accurately determine the eligibility of the requested vending spots.*

RECOMMENDATION:

P. 33— amend the following passage as shown, under **APPLICATION PROCESS**:

4. A scaled sketch plan ~~or~~ **and** photographs showing proposed cart location, dimensions, and details of surrounding streetscape elements, covering 6 feet on all sides of the edge of the proposed cart operation area including property lines, sidewalks, curb lines, lighting, trees indicating size, tree grates, planters, parking meters, benches, streets signs, bus stops, and fire hydrants.
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2. *Clarify the space allocation process in the handbook. For a fair process, all locations will be served on a first-come first-served basis. For multiple requests received for one location, a lottery will be executed for assigning the spot.*

RECOMMENDATIONS:

P. 34— amend/ add the following passages as shown, under **PERMIT PROVISIONS:**

- Current permit holders have the first advantage of selecting locations. Beyond that, Permits for qualifying locations that are available are allocated on a first-come, first-served basis. The time of submittal of the complete application, as validated by the permits officer will be stamped and recorded.
 - For multiple requests received for one qualifying location, a lottery will be executed for assigning the spot.
 - All permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.
 - For all pushcart permits issued prior to January 1, 2008, the first two permit holders who were issued the permits will be qualified to retain the two eligible vending spots along a block face. Remaining vendors who have been permitted along the relevant block will be reassigned to other available locations of Downtown.
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3. *Allowing change of location within a given year, with fee waiver has encouraged change of locations that is hard to track down and monitor. Change of locations should require new applications and fees for consistency in tracking and maintaining records.*

RECOMMENDATION:

P. 34— amend the following passage as shown, under **PERMIT PROVISIONS:**

- All issued permits are location-specific. If within a given year of receiving permit, the applicant desires to change location, an application **and the applicable fees** will have to be submitted for the new location. However, fees will be waived if the issued permit is still valid during the time of submittal. All permits will be issued after a site inspection is completed by the Zoning Department Inspection Officer.
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4. *Vendors have requested that vending carts be limited to only two per block (i.e., both sides of the street), irrespective of the type of products sold, to regulate fair distribution within the downtown limits and to prevent overcrowding along the public spaces. The current regulations do not limit the number of carts. A 100 foot distance between cart operation areas selling similar products should be maintained.*

RECOMMENDATION:

P. 35— amend the following passage as shown, under **STANDARDS / Location**:

Carts selling similar products or services are limited to two carts along a block, face section, including (single side of the street) and Cart operation areas must be at minimum 5 feet apart when each sell different primary products, and at minimum 100 feet apart when each sell the same primary products. (Please Note: For all pushcart permits issued prior to January 1, 2008, the first two permit holders who were issued the permits will be qualified to retain the two eligible vending spots along a block.

5. *Clarify if cart operation areas can include landscaped areas between sidewalk and edge of curb.*

RECOMMENDATION:

P. 35— amend the following passage as shown, under **STANDARDS / Location**:

- Cart operation areas must not include the landscaped areas between the sidewalk and edge of curb.
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6. *On Fayetteville Street, a pedestrian space a minimum of five feet in width must be maintained around the cart (p. 35). Some currently permitted carts do not meet the 5-foot clearance requirement.*

RECOMMENDATION:

P. 35— amend the following passage as shown, under **STANDARDS / Fayetteville Street Location Standards**:

- An unobstructed pedestrian space a minimum of five feet must be maintained around the cart. (Note: All carts permitted prior to January 1, 2008 are grandfathered against this requirement.) Where existing obstructions are present (such as fire hydrants), the corridor can be measured to go around these obstructions. For tree grates, the corridor is measured from the outer edge of the grate, unless an ADA-compliant grate is installed, in which case the 5 feet can be measured directly from the tree trunk.
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7. *Vending carts should be designed to be self-contained and food carts should be equipped with grease blankets. Grease drips on public spaces left from cart operation have been a major concern for the maintenance crew. With water supply shortage, grease traps would help conserve water that would be utilized in power-washing the grease drips from the public spaces.*

RECOMMENDATIONS:

P. 36— add/ amend the following passages as shown, under **Design**:

- All food vending carts should be equipped with an appropriate grease blanket/guard to trap grease from dripping onto public space.
 - All carts must be self-contained, with a waste receptacle. All equipment required for the operation (exceptions apply to all food vendors for use of coolers), must be contained within the cart. Vendors must not empty waste into City-owned trash receptacles.
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8. *Carts permitted prior to January 1, 2008 should be grandfathered in as they do not meet the current design standards. Also, amend Cart operation area in this section to keep it consistent with the redefinition in the Glossary.*

RECOMMENDATION:

P. 36— amend the following passage as shown, under **Design**:

- Cart dimensions must not exceed 6 feet H. x 8-1/2 feet L. x 4 feet W; total cart operation area must not exceed ~~36~~ 100 square feet. (Note: Carts permitted prior to January 1, 2008 are grandfathered against the 6-foot maximum height requirement.)
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9. *Accessories used in food vending must be kept within 3 feet of the cart to avoid obstructions of the public spaces.*

RECOMMENDATION:

P. 36— add the following passage as shown, under **Operation**:

- All accessories used for the operation of food vending carts must be placed within 3 feet of the outer edges of the cart.
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10. *Permits issued for locations not utilized or left vacant for more than 3 months should be revoked. This exempts those locations that are affected by construction work or seasonal weather conditions.*

RECOMMENDATION:

P. 36— add the following passage under **Operation**:

- Permits assigned to locations that are left vacant for more than 3 months after permit issuance will be revoked. The permit holders will have to reapply for permits thereafter. Permits for the revoked location will be issued on a first-come, first-served basis. The time of submittal of the complete application, as validated by the permits officer will be stamped and recorded. For multiple requests received for this location, a lottery will be executed for assigning the spot. (Note: Locations that are affected by construction work or other, permitted temporary obstructions will be exempted.)
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11. *City Maintenance team has reported the issues with lack of maintenance observed by the pushcart vendors. Pushcart vendor should be responsible for complying with the standards set by the City for the maintenance of public right-of-way spaces.*

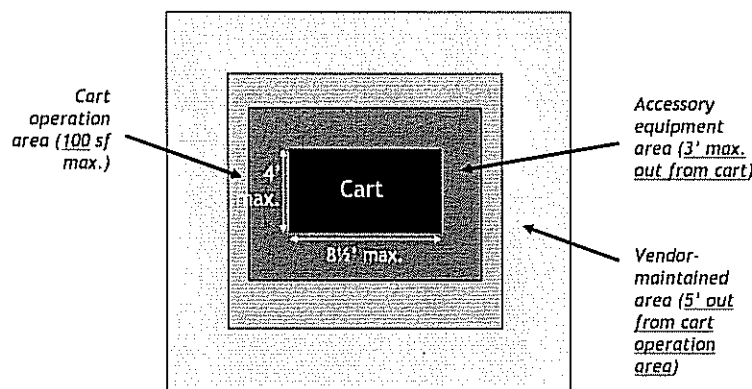
RECOMMENDATIONS:

P. 37— amend the following passages under **Maintenance**:

- The pushcart vendor is responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles are not to be used for this purpose. Vendors shall remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor must keep clean all areas within 5 feet of the perimeter of the pushcart the cart operation area clean of grease, trash, paper, cups, coolers, or cans associated with the vending operation.
- No liquid waste or grease is to be disposed in tree pits, storm drains, or onto sidewalks, streets or other public space. The vendor is responsible for the removal of grease from sidewalk and street surfaces resulting from the daily operation, unloading, and loading of the pushcart.

P. 39—amend the following illustrations to match the above text:

- Cart diagram
- Cart operation diagram:



MINOR ENCROACHMENTS

1. Define Minor Encroachments and blanket permits application.

RECOMMENDATION:

P. 46—amend the following passage as shown, under MINOR ENCROACHMENTS—last paragraph:

All Minor Encroachment Permits are issued at the Downtown Permits Office. Minor Encroachment permits are issued one-time and serve as a blanket for all types of Minor Encroachments listed in this Handbook, except for outdoor merchandise, which requires annual renewal permits. Façade Grant Permits are issued at the Raleigh Urban Design Center (contact 807-8482 for more information).

2. *Delete building permit fee requirement for overhead signs as it is not relevant.*

RECOMMENDATION:

P. 64— delete the following passage as shown, under **FEE SCHEDULE**:

Building Permit \$70

P. 75— delete the following passage as shown, under **Overhead Signs**:

Building \$70

Section III. APPENDICES

1. *Redefine cart operation area.*

RECOMMENDATION:

P. 77— amend the following definition, as shown in the **GLOSSARY**:

Cart Operation Area — ~~An area a maximum of 36 square feet in size measured out from the edges of a vendor cart. The~~ surface area required for the operation of a pushcart, measuring a maximum of 100 square feet (including the area immediately beneath the pushcart).

FOLLOW-UP IMPLEMENTATION ITEM:

1. *Explore the possibility of installing modular newsrack units within Downtown Overlay District and Pedestrian Business Overlay District limits.*

RECOMMENDATION: Adopt one three options:

Option A -- If the city initiates this effort, it could be implemented through a phased approach. Funding sources for this purpose would need to be identified.

Option B -- The publishers/vendors could collaborate to purchase and install standardized units within downtown.

Option C -- A third party vendor could be contracted to install and maintain city-specified racks.

Possible Additional Amendments

Standards for Private Use of Downtown Public Spaces

The following additional amendments are drawn from comments in follow-up to the Law & Public Safety Committee; March 25, 2008 and submitted to the consideration of the City Council on April 1, 2008.

KEY TO TEXT:

- *Issues identified by the inter-agency implementation team and stakeholder groups shown in boldface italics.*
- Text shown in **boldface and underlined** is new wording, proposed to be added; text shown in **boldface alone** represent changes proposed in the presentation to City Council on April 1, 2008..
- Text shown ~~struck-through~~ is proposed to be deleted.

Section II. PERMIT PROCEDURES

PUSHCART VENDING

1. *Clarify the Location of Pushcarts with respect to non-competing businesses and outdoor dining*

RECOMMENDATION:

P. 35— amend the following passage as shown, under *Location*:

- All carts must operate in locations that are deemed non-competing to fixed location businesses at a minimum of 50 feet away from a fixed establishment selling similar products excluding beverages. However, with the written permission from the fixed establishment, vendors can locate within 50 feet of such an establishment and sell similar products.
- Food carts are not permitted to operate within 50 feet of an outdoor dining space along a street block face. **However, with the written permission from the restaurant owner providing the outdoor dining services, vendors can locate within 50 feet of the pertaining outdoor dining area.**

2. *Specify the proposed effective date of the revised standards and procedures*

RECOMMENDATION:

- The new standards are proposed to be effective June 1, 2008 for all **new** permits. New permits issued after June 1, 2008 should comply with the revised standards and procedures. However, all permits issued in 2007 will be valid until June 30, 2008. Current permit holders are expected to attain compliance with the standards and procedures by July 1, 2008, when the renewed permits will be effective.